

BOARD OF ADJUSTMENT REPORT



MEETING DATE: 2/1/2006

ITEM No. _____

ACTION REQUESTED: Zoning Ordinance Variance

SUBJECT
**Lamalfa Residence
(11-BA-2005)**

REQUEST
Request to approve a Variance from Article VI. Section 6.1004.B regarding walls, fences, hedges, Article VI. Section 6.1071 regarding walls and Article VII. Section 7.200.A regarding accessory buildings.

OWNER/APPLICANT
Anthony Lamalfa, Jr.
480-513-4040

LOCATION
8449 E Dixileta Drive

CODE ENFORCEMENT
ACTIVITY
This property was issued a Notice of Violation on March 15, 2005.

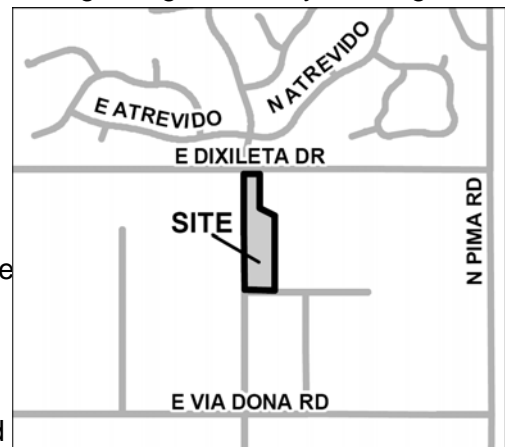
PUBLIC COMMENT
The applicant sent letters to surrounding property owners and personally talked with some of the neighbors. One call for information has been received. No calls in opposition or support for this case have been received.

ZONE
This site is zoned R1-190, FO, ESL (Single-family residential district – 190,000 square feet, Foothills Overlay, Environmentally Sensitive Lands).

ZONING/DEVELOPMENT
CONTEXT
The subject site is located on the south side of Dixileta Road, and is a large unsubdivided parcel. To the north of Dixileta Road is a subdivision zoned R1-70 ESL (Single-family residential district – 70,000 square feet, Environmentally Sensitive Lands). The properties to the south of Dixileta Road are similar to the subject parcel and are large unsubdivided properties zoned R1-190, FO, ESL (Single-family residential district – 190,000 square feet, Foothills Overlay, Environmentally Sensitive Lands).

Dixileta Road is a demarcation between two character types of development: nonequestrian lots within a subdivision called Sincuidados and large unsubdivided equestrian and nonequestrian parcels that range from 40 acres to 5 acres in size. The majority of the nearby larger R1-190 zoned parcels are approximately 5 acres.

This property was zoned R1-190 in 1984. The ESL zoning was applied to the site in 1991. The FO district was put in place on 2003.



Aerial photography shows the following site development history. In 1999 the north portion of the property was undeveloped, as it is today. Also in 1999 the south portion of the property was developed with a single-family residence (the same residence exists today) and accessory buildings in the same location along Morning Vista Drive as exists today but with additional accessory buildings. In 1999 these lots were assembled together resulting in the existing double frontage lot. Before the Foothills Overlay district zoning in 2003, this double frontage property was improved with a single-family residence with detached garage and front yard improvements including fencing, equestrian facilities that included 2 barns, a small shed, a mare motel, a large arena, corals, and walker stations. Sometime between 2002 and 2004 additional covered horse stalls were placed on the site and the existing horse stall was relocated (see the site plan, attachment 8). Record research does not show any permits issued for these improvements.

ORDINANCE
REQUIREMENTS

Zoning Ordinance Article VI. Supplementary Districts. Section 6.1004. B. Walls, fences, and hedges. This Section allows 6-foot high walls, fences, and hedges on the property line except within required front yards. In addition, walls 3-feet high may be placed in the required front yard. A 5-foot high chain link fence (wall) is located on the property lines and front yard along Morning Vista Drive.

Zoning Ordinance Article VI. Supplementary Districts. Section 6.1071. Design Guidelines. Single-family residential parcels more than 35,000 square feet require walls (wall) setback a minimum of 15 feet from side property lines. The chain link fence is located on the property line and extends a distance of 15 feet from the property line.

Zoning Ordinance Article VII. General Provisions. Section 7.200. Additional Area Provisions. A. Accessory Buildings. No accessory buildings shall be permitted in a required front yard. There are multiple accessory buildings in the required front yard along Morning Vista Drive.

DISCUSSION

The applicant seeks to legalize the nonconforming chain link walls and accessory buildings on this double frontage equestrian property. The walls and buildings have existed without the benefit of a permit.

The specific variance is for:

1. Walls within the front yard greater than 3-feet height, walls existed in 1999
 - a. Foothills Overlay zoning applied to site March, 2003
2. Walls less than 15 feet from the site property lines, walls existed in 1999
 - a. Environmentally Sensitive Lands amended April, 2004
3. Accessory buildings in required front yard, accessory building existed in 1999 and one was modified in 2005
 - a. R1-190 district created in 1982; the General Provisions control

accessory building placement and with the creation of the R1-190 district accessory buildings were not allowed in the required front yard.

The site improvements are associated with equestrian improvements that have been on the property since 1999 and improvements were made incrementally with the most recent change being the relocation of an accessory building to the required front yard in 2005. (See the attached historical aerial photography.)

FINDINGS

1. That there are special circumstances applying to the property referred to in the application which do not apply to other properties in the District. The special circumstances must relate to the size, shape, topography, location or surroundings of the property at the above address:

- A 50-cfs or greater wash bisects the south half of the property and constrains the feasible locations for equestrian facilities, which include walls and buildings.
- The property is a double frontage lot. Only one other equestrian lot in this area has double frontage, the other double frontage lots are not equestrian lots.
- The site's primary building is located in the center of the lot. Placement of the existing home plays a role in considering options for arena and accessory building locations. Thus, the accessory buildings are located within the required front yard. Fencing is needed to secure the accessory use.

2. That the authorizing of the variance is necessary for the preservation of the privileges and rights enjoyed by other properties within the same zoning classification and zoning district:

- Other properties in this area have equestrian use and rights. This double frontage site has developed with its primary building set well away from the street compared to other properties in the area which have developed with primary buildings closer to the front of the lot and which do not have double street frontage.

3. That special circumstances were not created by the owner or applicant:

- The wash that constrains the location of site improvements is a natural feature.

4. That the authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general:

- This property owner has made some modifications to the accessory building locations but the improvements have stayed primarily the same condition with the accessory

- buildings and fence in the front yard.
- The allowance of this variance would foster the continued use of an equestrian facility in an area of the community that strongly favors equestrian use and development.

STAFF CONTACT

Kira Wauwie, Project Coordinator
Report Author
Phone: 480-312-7061
E-mail: KWauwie@ScottsdaleAZ.gov

Tim Curtis, AICP
Principal Planner
Phone: 480-312-4210
E-mail: TCurtis@ScottsdaleAZ.gov

ATTACHMENTS

1. Project Description
2. Justification
3. Context Aerial
4. Aerial Close-up
5. Site History-Aerial Maps
6. Zoning Map
7. 50-CFS or Greater Wash Location Map
8. Applicant Site Plan
9. Site Plan showing Variance Request

Narrative

May 9, 2005

Board of Adjustment Variance
7447 E. Indian School Road Suite 105
Scottsdale, AZ 85251

RE: 8449 E. Dixileta Drive Property Setbacks & NAOS

To Whom It May Concern:

I purchased the above referenced property through the Phoenix Court System on June 18th, 2003 and took possession of it on July 16th, 2003. When buying this property, I presumed everything was properly accounted for, however, on March 15th, 2005 I was notified by the Planning Inspectors of certain violations. These violations were for both NAOS and Property Setbacks.

Although, I have since applied for relocation of NAOS with the proper maps & documentation, I would like to address with you the Setbacks issue on the Morning Vista property line.

Maintenance & Use

Morning Vista is not maintained by the Scottsdale Road Department at this time. I have performed all maintenance myself since my acquisition of the property. The only traffic on this road other than me is neighbor children for off-road vehicle use.

Further, the Residences on the north side of Morning Vista, including myself, all exit their properties on E. Dixileta Drive. The Residences on the south side of Morning Vista, exit their respective properties to the south on Via Dona. (Please see above referenced roads on the attached map).

Other Considerations

To my knowledge, there have been no complaints on setback issues regarding my property. To consider Morning Vista as my front yard line (60 ft. setback) would also require considerable expense in moving three covered structures.

Therefore, I would like the Morning Vista property line to be considered my backyard property line (20 foot setback) Not only is this a commonly issued setback for backyard, but the driveway entrance and subsequent City issued address are on E. Dixileta Drive.

If considering Morning Vista as my backyard property line is not feasible, I would respectfully request a variance for the existing structures and setback.

Thank you for your consideration on this matter.

Sincerely,



Anthony LaMalfa

11-BA-2005
9/22/2005



ZONING ORDINANCE VARIANCE

Application Submittal Requirements

Justification for Variance

The Board of Adjustment may not authorize a zoning ordinance variance unless ALL of the following criteria are met. Use the space provided to present your evidence that the requested variance complies; you may attach a separate sheet if you need more room.

1. Special circumstances/conditions exist which do not apply to other properties in the district:

PURCHASED SUBJECT PROPERTY IN JUNE 18TH 2003. PURCHASED THROUGH THE PROBATE COURT SYSTEM. COUNCILS AND FENCE WERE THERE WHEN PURCHASED. BARRS WERE THERE ALSO I WAS NOT INFORMED OF SET BACK VIOLATIONS UNTIL MARCH 15 2005. ALL BARRS VIOLATIONS HAVE BEEN CORRECTED.

2. Authorizing the variance is necessary for the preservation and enjoyment of substantial property rights:

IF I HAD TO MOVE BACK ON NORTHERN AVE, IT WOULD IMPACT THE HORSE FACILITY A GREAT DEAL. IT WOULD ALSO COST A GREAT DEAL OF MONEY. IT WOULD ELIMINATE ALL THE COTTAGES ON THE SOUTH SIDE OF HORSE FACILITY PLUS ALL THE COTTAGES & PART OF THE HORSE BARN.

3. Special circumstances were not created by the owner or applicant:

SAME AS #1

PROPERTY IS pretty much the way I PURCHASED IT IN 2003

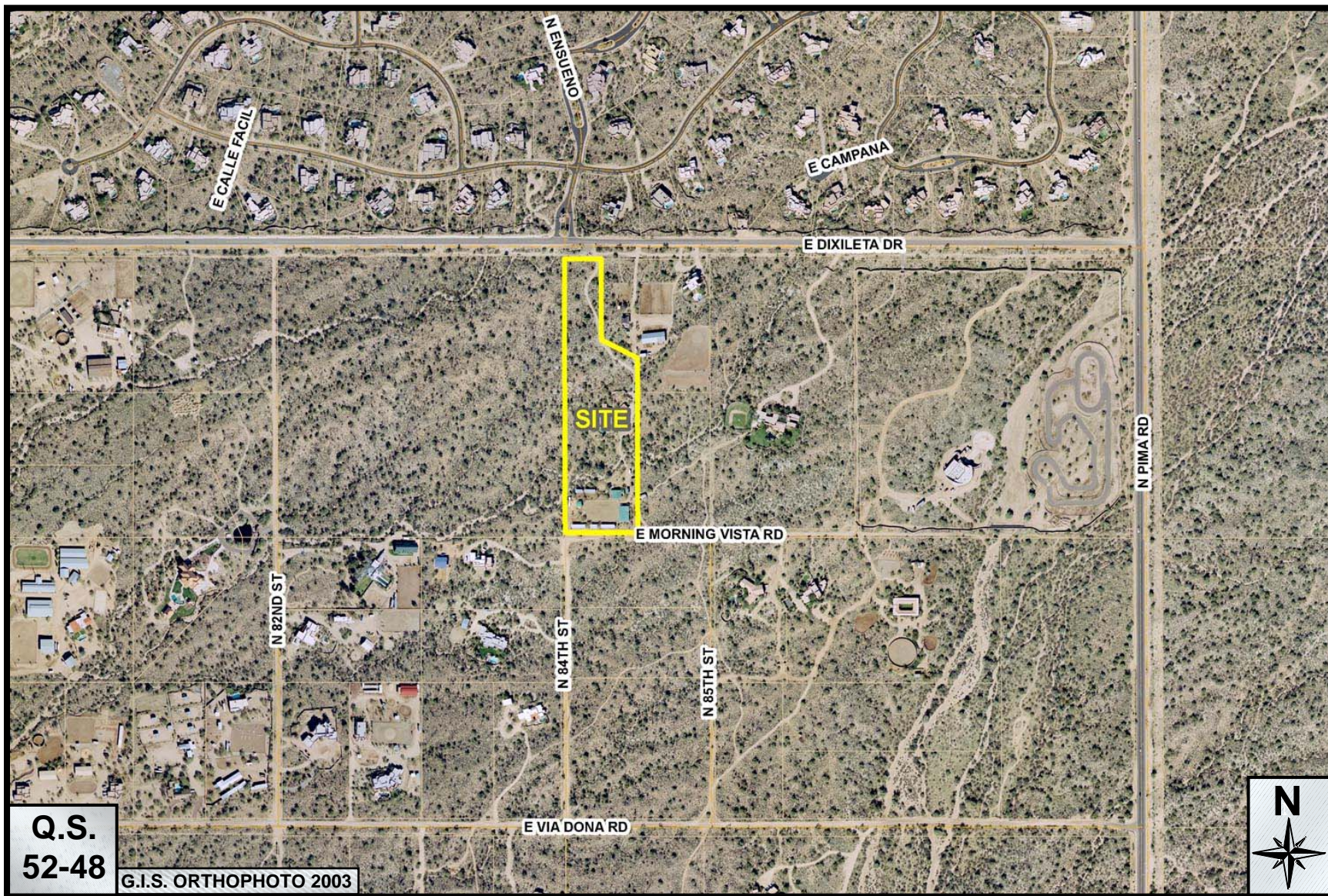
4. Authorizing the application will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare in general:

ITS FOR AS I KNOW, THIS FACILITY WAS BUILT IN 96-97, AND, NOT HARMED OR BEEN DETRIMENTAL TO ANY PERSONS THAT I KNOW OFF.

11-BA-2005
9/22/2005

Planning and Development Services Department

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 • Phone: 480-312-7000 • Fax: 480-312-7088



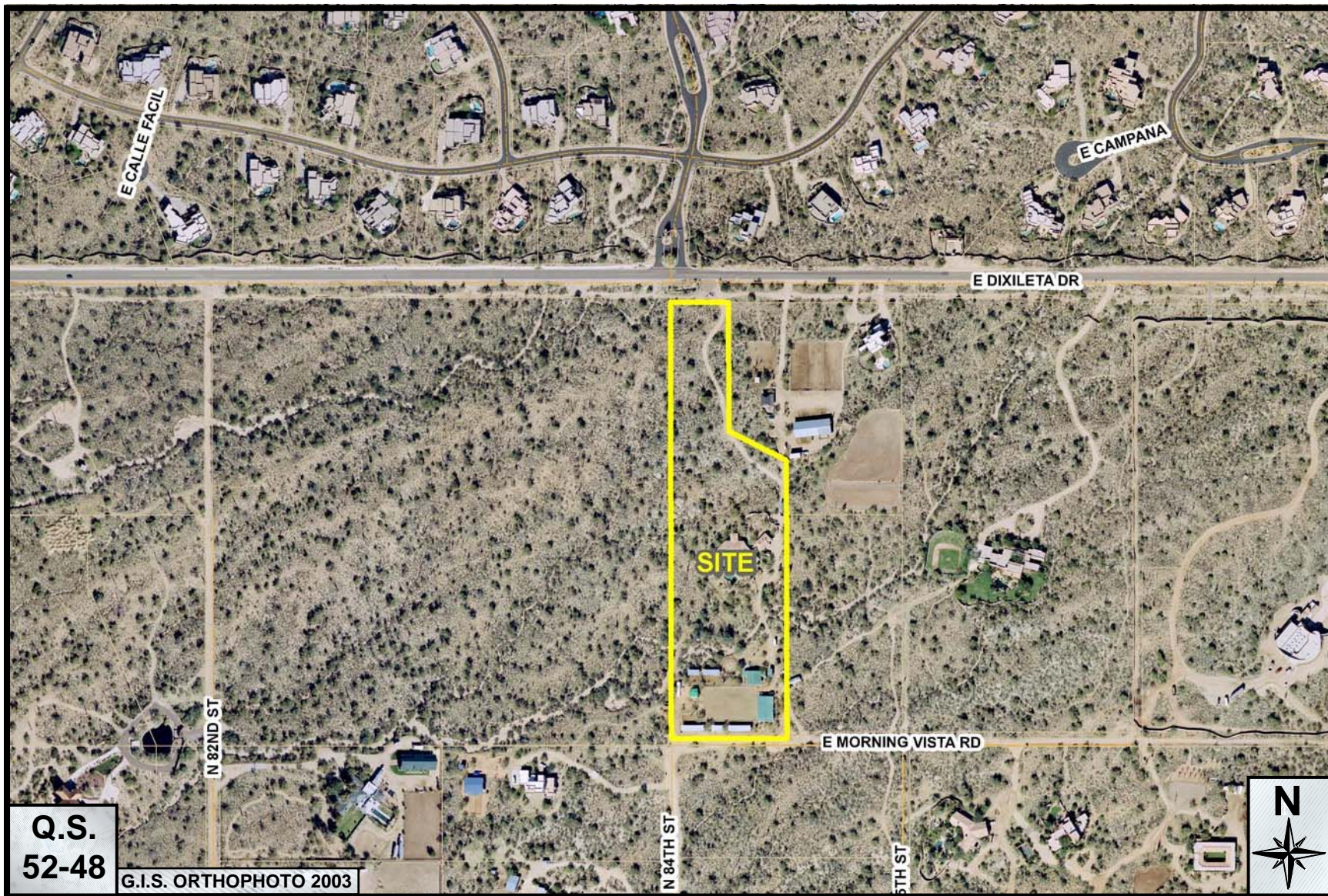
Q.S.
52-48

G.I.S. ORTHOPHOTO 2003

Lamalfa Residence

11-BA-2005

ATTACHMENT #3



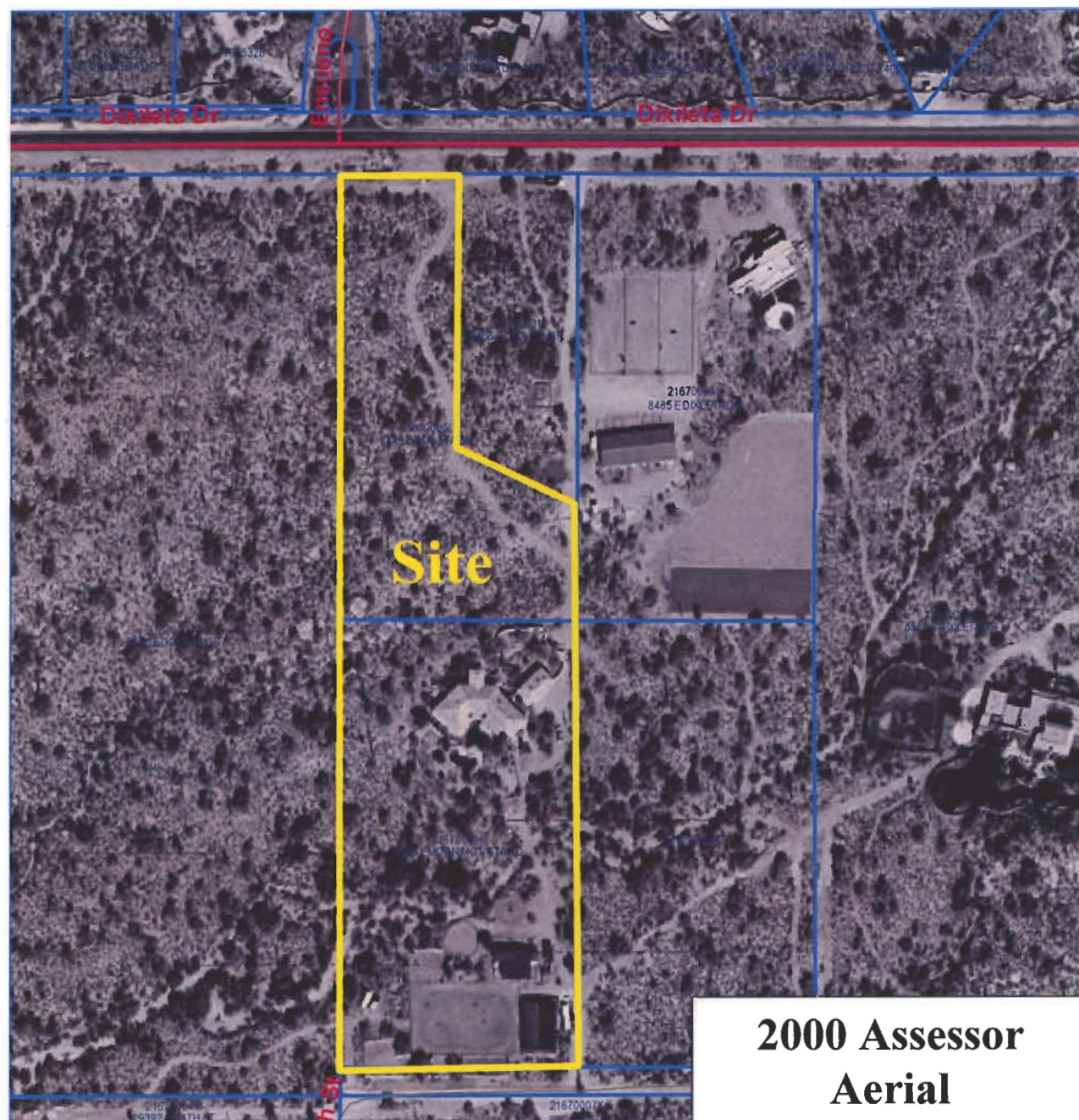
Q.S.
52-48

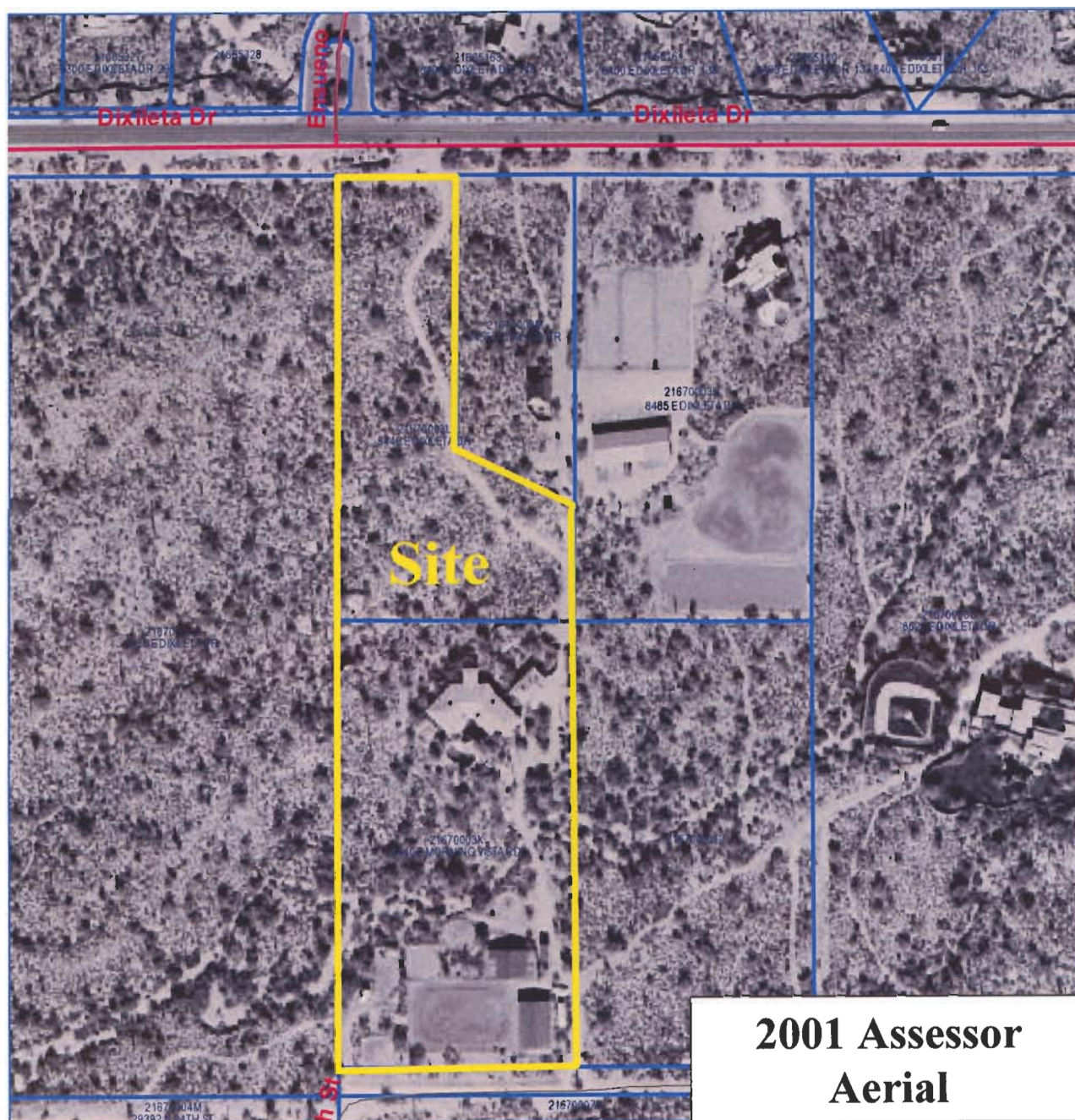
G.I.S. ORTHOPHOTO 2003

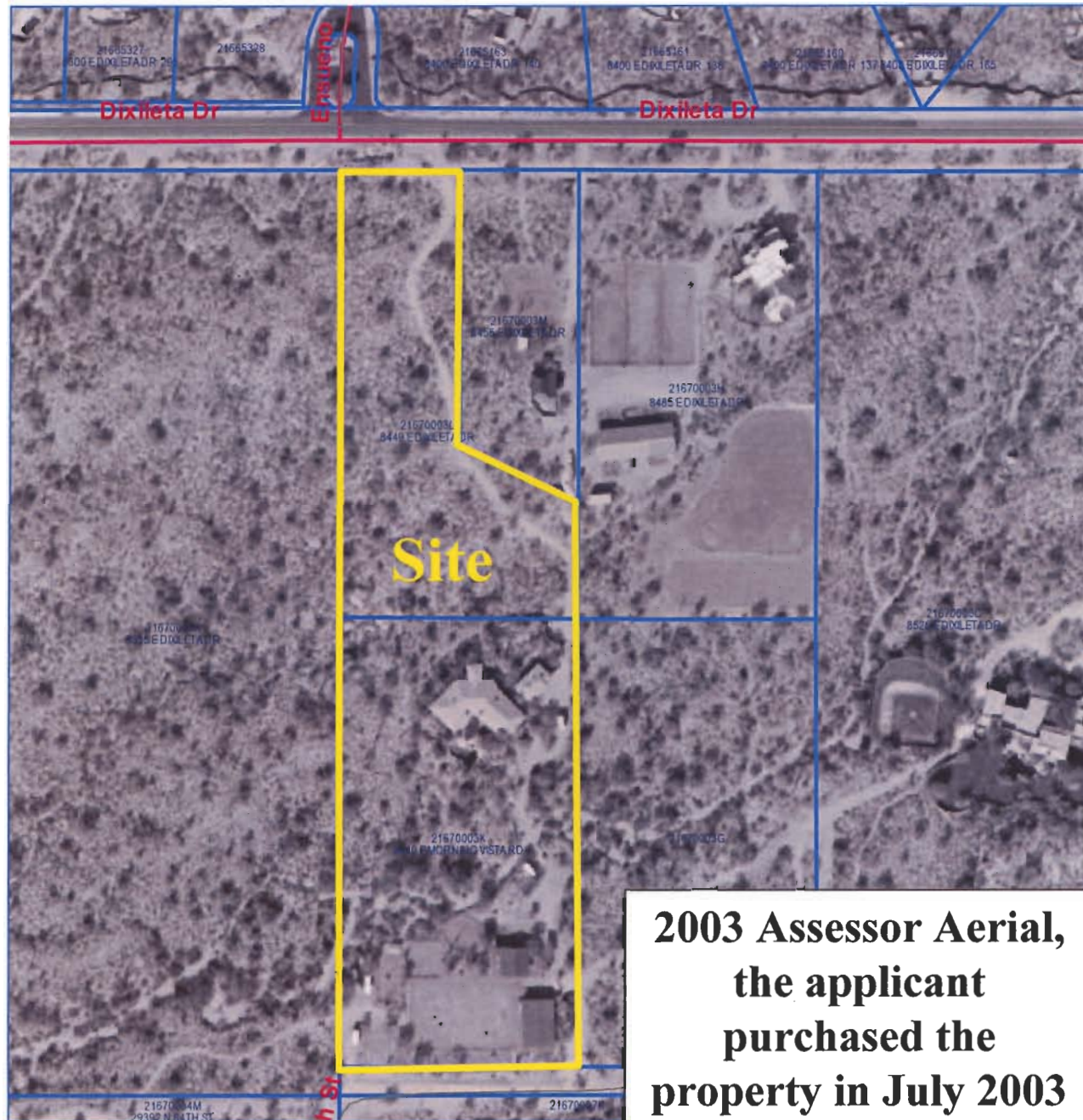
Lamalfa Residence

11-BA-2005

ATTACHMENT #4





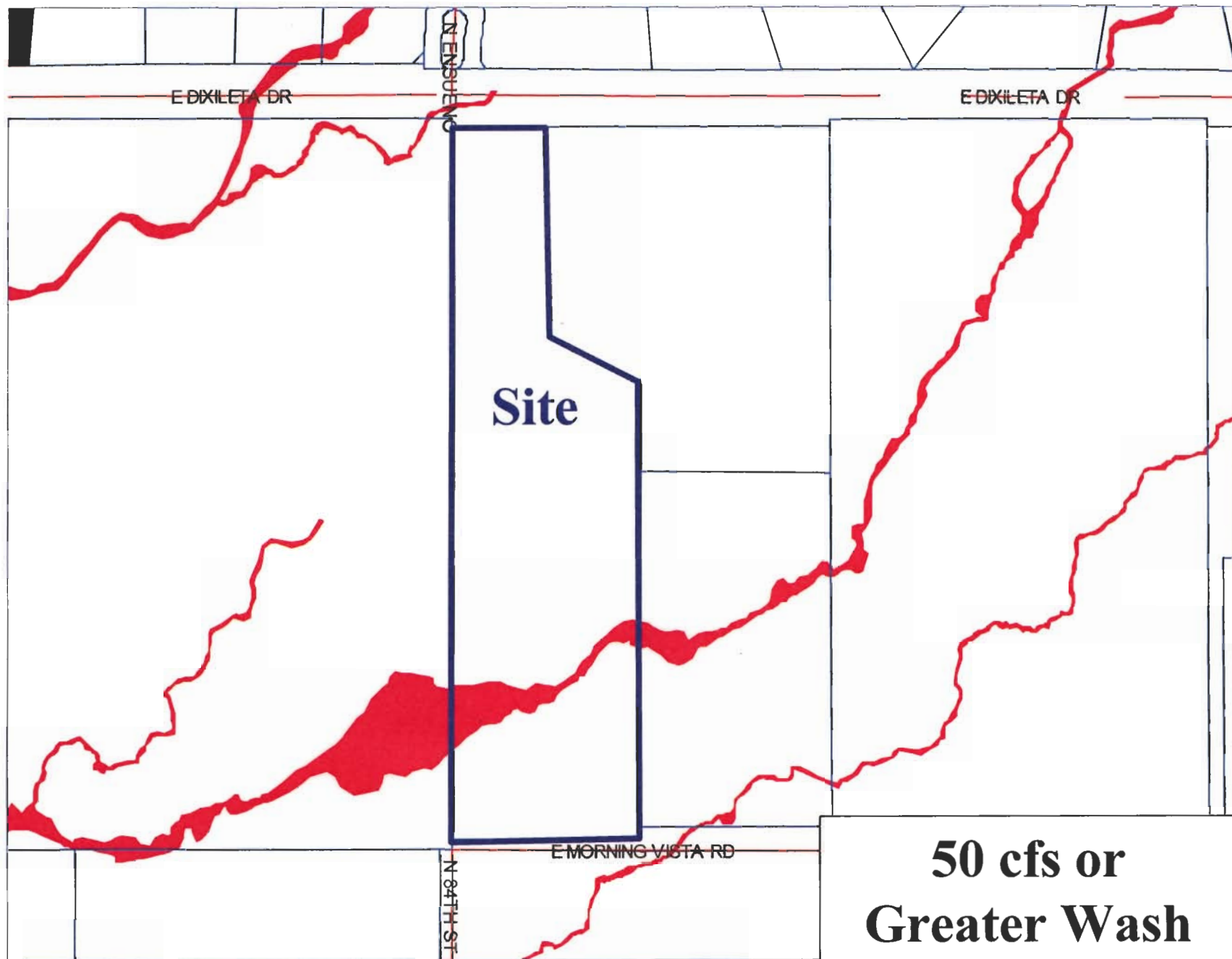


**2003 Assessor Aerial,
the applicant
purchased the
property in July 2003**



2004 Assessor Aerial





SITE PLAN

G. & S. R. B. & M., MARICOPA COUNTY, ARIZONA



LAMALFA LOT
TOTAL AREA OF SITE IS 8.04 ACRES
H.A.O.S. % REQUIRED IS 25% OR 2.01 ACRES

PHONE: 480-251-3337

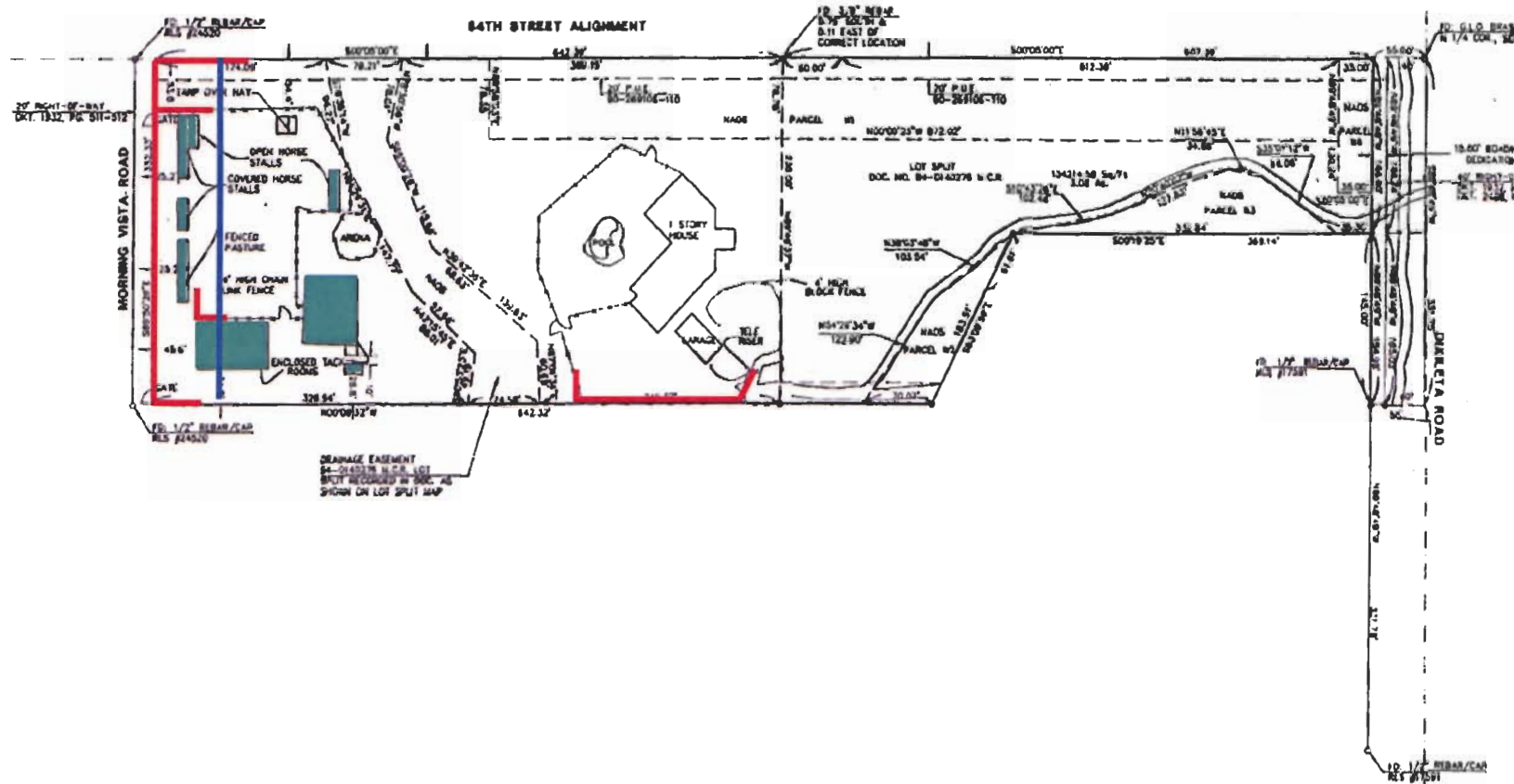


- SET 1/2" REBAR/CAP
R.L.S. #10260

11-BA-2005
9/22/2005

;

Lamalfa Variance



- Front yard setback
- Fence variance
- Accessory structures

